

From: Hal Roberts
To: Microsoft ATR
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Subject: Microsoft Settlement

I strongly oppose the currently proposed settlement of the Microsoft case.

The shape of our society is increasingly determined by the nature of the technologies we use, and many of the most important technologies are those related to computers and the Internet. The mechanisms for citizens to make decisions about important technologies are through government regulation and through the free market mechanisms of capitalism.

The facts of the Microsoft case have shown that Microsoft has blatantly flouted the law in extending its monopolistic control over some of the most fundamental technologies of our society. Even more importantly, Microsoft has shown neither an understanding that its behavior is illegal nor an inclination to change its behavior in the future. Microsoft currently has hugely disproportionate power over the nature of the most important technologies in our society. To allow the current state of affairs to continue is to disarm both the governmental regulatory and the free market controls that citizens wield over their technological lives. This settlement would allow a social pariah more control, in many ways, over our society than our democratically elected government.

The proposed settlement would do absolutely nothing to change the current state of affairs, since it has no built in mechanisms to enforce its provisions. Requiring Microsoft to open up its APIs is one important step in reigning in its proven abuse of its monopoly. However, the settlement provides no enforcement mechanisms to require Microsoft to change its behavior. In fact, if Microsoft chooses to ignore the requirements of the settlement, the only remedy will be to take Microsoft back to court. If the current case has shown anything, it has shown that the speed of the legal process makes it almost wholly unsuitable for regulating the technology industry (witness the death of the browser market while the current Microsoft case dragged on).

Given that Microsoft 1) has been proven to act illegally in repeated instances, 2) has never admitted any degree of wrongdoing in its illegal acts, and 3) has repeatedly expressed the intent to continue the operation of its business as it sees fit, the most likely result of this settlement is the following. Microsoft will make, at best, nominal but ineffective efforts to follow the settlement provisions. Industry competitors will recognize Microsoft's illegal behavior and, within six months, encourage the government to file suit to require Microsoft to change its behavior. The current Microsoft case will be repeated over

the next five years, after which time the government will agree to yet another settlement with unenforceable provisions, which Microsoft will once again blatantly ignore.

Please do not throw away this chance to give the citizens of our country a say the shape of their lives.

Sincerely,

Hal Roberts